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Cayman Islands

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac (15 square miles) and the adjacent and largely undeveloped Little Cayman (11 square miles).

2. According to the Economics and Statistics Office of the Cayman Islands, the population of the Territory in 2003 was 44,144, which is an increase from 43,004 in 2002.[2] An estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed.

II. Constitutional, legal and political issues

3. The Cayman Islands is a Non-Self-Governing Territory (Overseas Territory) under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution of 1959 was revised in 1972, 1992 and 1994. Under the Constitution, the Governor, who is appointed for four years by the British monarch, is responsible for external affairs, defence, internal security and public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor, namely the Chief Secretary (until 1992, the Administrative Secretary), the Financial Secretary and the Attorney General, and five members elected by the Legislative Assembly. The Executive Council is responsible for the administration of government. The Governor assigns ministerial portfolios to the elected members of the Executive Council. The Legislative Assembly comprises three official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

4. The Governor of the Cayman Islands, Bruce Dinwiddy, was appointed in May 2002.

5. Until 2000 there were no formal political parties in the Territory and the following loose groupings acted as political organizations: National Team, Democratic Alliance and Team Cayman (see A/AC.109/2003/9, paras. 7-8). Following the defeat of the National Team in the general elections held in 2000, a majority of the Legislative Assembly members formed a political party, the United Democratic Party (UDP), on 5 November 2001. Mr. McKeeva Bush of UDP became the Leader of Government Business. The next election is scheduled for November 2004.

6. The judicial system is based on British common law, certain British statutes and local statute law. There is the Grand Court (with Supreme Court status) and the Summary Court, which includes criminal, civil, family, youth and coroner's court. Appeals lie with the Court of Appeal of the Cayman Islands and, beyond that, with the Privy Council in London.

7. In March 1999, the Government of the United Kingdom issued a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". The legislation proposed the extension of British citizenship to the citizens of the Territories; at the same time, it required the Territories to conduct a constitutional review and to amend their local legislation, in particular on human

rights and on the regulation of financial services, to meet international standards. In May 2002, the bill became the British Overseas Territories Act 2002.

8. The Constitutional Review Commission submitted the report of the constitutional modernization review commissioners in May 2002, together with a draft constitution (see A/AC.109/2002/7, paras. 11-14 and A/AC.109/2003/9, paras. 10-19). The draft constitution intended to bring into effect a new or amended constitution prior to the 2004 general election. In February 2003, following informal talks between the Cayman Islands and the United Kingdom, the revised draft constitution and two related draft orders in council were returned to the Territory for further public discussion.[3] The constitutional amendment was passed in June 2003 as a Cayman Islands order in council. The order provided for the formal appointment of the Leader of Government Business as well as the Leader of the Opposition. It also had provisions for the establishment of a boundaries commission that would submit proposals on the creation of 17 single-member constituencies within the six electoral districts to allow for one-person, one-vote in the 2004 elections. The order gave constitutional authority to the Leader of Government and the Leader of the Opposition to appoint one member to the three-person boundaries commission. In addition, the order provided for changing the name of the Executive Council to Cabinet. The order did not, however, accede to the proposal to create the post of chief minister to replace the post of Leader of Government Business and thus make a move towards a ministerial system of government.

9. Since the order initiated implementation of some sections of the Constitution that were needed before the 2004 election, UDP continued to insist on its position to move towards partial implementation of the Constitution first and complete implementation later. The exception to this concerns the bill of rights, which is included in the Constitution, but would not be implemented until 2005 in order to allow time for audits, training and changes in laws that would be impacted by its incorporation.[4]

10. Following the passing of the constitutional amendments in June 2003, the Electoral Boundary Commission was formed. The Commission consisted of three members: one appointed by the Governor, one by the Leader of Government Business and one by the Leader of Opposition. The Commission worked through July and August 2003. It defined, inter alia, the new electoral constituencies, verified the lists of registered voters and conducted public meetings throughout the Territory. The report of the Commission was forwarded to the United Kingdom for comments and recommendations.[5]

11. In December 2003, recommendations of the Boundary Commission were passed by the Legislative Assembly of the Cayman Islands. They have not yet been approved by the United Kingdom, however. The issue of how the electoral districts are to be mapped continues to be a matter of contention between the ruling party and the opposition and, according to press reports, is the reason for the delay in the approval of the proposals by the United Kingdom. As the November 2004 election will be the first to be run on the basis of a two-party system, the mapping of the electoral districts is crucial. The opposition, People's Progressive Movement (PPM), claims that the proposed mapping favours the ruling UDP[6] (see also section VII below).

12. With respect to further amendments to the Constitution, the Foreign and Commonwealth Office of the United Kingdom announced, at the beginning of 2004,

that the constitutional talks that had been scheduled to be held in London on 5 and 6 February 2004 between representatives of the United Kingdom and the Cayman Islands would not take place at that time. The announcement followed the withdrawal of the UDP delegation from the talks. The United Kingdom Government hoped UDP would reconsider its decision not to participate further in the constitutional review process before the November 2004 elections and that talks could be rescheduled in order that agreement could be reached on a constitution that had widespread support throughout the Cayman Islands, was acceptable to the United Kingdom Government and was in the interests of the Territory as a whole.[7]

III. Budget

13. At the beginning of 2003, the Financial Secretary presented the outline of a major reform called the financial management initiative. The reform includes a number of changes in the budgetary process, as described below.

14. First, budgets and reports will be strategic and performance oriented, focusing on the outcomes the Government is seeking to achieve and the funds to achieve those outcomes. This approach differs from one of merely focusing on financial inputs.

15. Second, the traditional cash accounting system will be replaced by an accrual one that includes the use of operating statements and balance sheets, and complies with internationally accepted accounting standards.

16. Third, most of the traditional centralized control will be removed, thereby giving civil service managers more freedom and flexibility. In return for the extra authority, managers will be subject to a new system of accountability and will be held directly accountable for the achievement of an annual performance agreement that, in turn, will be part of the budget process.

17. Other components of the reform include changes to the Government's management of its cash and working capital, a greater focus on revenue collection and changes to the Government's borrowing and managing of the public debt. In particular, the latter will involve replacing existing bank loans with bond issues.

18. The first actual budget to be prepared in full accordance with the new reform principles will be the budget for the 2004/05 financial year. The 2003 budget, however, was prepared on the basis of a new format, albeit for a six-month period, January to June 2003.

19. The strategic component of the projected long-term budget goals of the Government include: no new revenue measures; no new borrowing; generating operating surpluses by controlling recurrent expenditure while allowing revenue to increase in line with economic growth; limiting capital expenditure to levels that can be financed by operating surpluses; and building reserves by leaving existing reserves untouched and by committing to allocate any unforecasted revenue to reserves.

20. The operating revenue for the first half of 2003 is projected at 179,472 million United States dollars; the operating expenditure will decrease and become minus $135,130 million, leaving the operating surplus at $44,347 million. The net asset activity will also decrease by $12,460 million; the net borrowing activity will go

down by $5,739 million; and the net balance sheet activity will be decreased by $18,199 million. This will leave the Government with an overall surplus of $26,148 million.[7]

IV. Economic conditions

A. General

21. The Cayman Islands has one of the highest standards of living in the Caribbean. The economy is based on tourism and on the Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company, bank and trust licence fees, and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100 to 1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

22. After a slowdown in 2001, economic activity improved in the Cayman Islands in 2002, with consumer spending driving industrial production and international trade. The three major indicators of the domestic economy, gross domestic product (GDP), unemployment and inflation, confirm a gradual improvement of the economy. According to the Foreign and Commonwealth Office, the GDP per head is $36,271; the annual growth rate is 4 per cent; and the annual inflation rate is 1.9 per cent. The purchasing power parity of the Cayman Islands economy is $1.27 billion. The major trading partners are the United States of America, the United Kingdom and the Caribbean Community. United Kingdom exports for 2002 were 8.97 million pounds and imports for the same period were 4.8 million pounds.[8]

23. In November 2002, the Government of the Cayman Islands adopted a comprehensive plan entitled "The Cayman Islands: a centre of excellence for the twenty-first century", which covers the period 2003-2005 and aims to refocus the economy and maintain a responsive institutional and legislative framework for such important areas as tourism, e-business, marketing and incentives (see A/AC.109/2003/9, paras. 23-29). The plan took into account the forthcoming tax information exchange agreements with countries members of the Organisation of Economic Cooperation and Development and included provisions for updating the local legislature in accordance with changing international requirements. It also addressed the creation of new corporate products, enhancing product delivery mechanisms and access to business information, developing immigration laws relevant to the needs of the economy, and improving the local investment environment.

B. Agriculture, livestock and fisheries

24. Agricultural activities, although limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five or six years, with 10 large farms totalling over 100 acres. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. Agriculture constitutes 1.4 per cent of the total GDP.

C. Tourism

25. The tourism sector dominates the Caymanian economy, accounting for about 70 per cent of GDP and 75 per cent of foreign currency earnings.

26. According to the Department of Tourism, as at the end of November 2003, a total of 239,924 passengers arrived in the Cayman Islands by air and 1.4 million arrived by cruise ship.

27. In May 2003, the Cayman Islands celebrated the five hundredth anniversary of their discovery.

28. According to the Leader of Government Business,[9] the policy objective for the tourism sector in 2003 was to enhance existing services and create innovative tourist attractions. Measures in that area included port and island-wide landscape beautification programmes, human resources retraining and improvement of customs and immigration services. The Government also strived to increase marketing and incentives for the tourism sector and to explore the possibility of increasing the number of high-income stay-over visitors from Europe. It planned to create incentives for the development of new tourism facilities and the establishment of special areas for five-star boutique hotels.[9]

29. The Government specifically directed its efforts towards raising the number of stay-over visitors. The 2003-2004 budget outlines several new initiatives to that end, including a $1.5 million television advertising campaign that will be mounted on United States national cable networks.

30. Although overall air arrivals for 2003 fell 3 per cent from 2002, the drop was far smaller than the 9.36 per cent fall between 2001 and 2002. The overall figure for 2003 shows a record-breaking number of 1.8 million cruise passengers, representing a 15.5 per cent increase over the final figure for 2002. It is predicted that over 2 million cruise ship passengers will visit the Cayman Islands in 2004. Quincentennial celebrations of the discovery of the Cayman Islands by Columbus contributed to the positive outcome.[10]

31. As part of the Government's programme to make the Cayman Islands more attractive to tourists, a new theme park will be opened in 2004. The construction of the park, tentatively named the Black Pearl Skate Park and Surf, is set on a 38,000-square-foot site. The park will include a world-class skateboard park and surf-wave pool. In the future, the entertainment facility will be enhanced by an aqua park.[11]

D. Financial services

32. The Cayman Islands remain among the top international financial centres (see A/AC.109/2003/9, paras. 41-50). Currently, there are more than 40,000 companies registered in the Cayman Islands, including 600 banks and trust companies. Forty-three of the world's largest banks are present in the Cayman Islands. By December 2003, there were 4,168 mutual funds, of which 87 per cent were locally incorporated. The banking sector employs more than a tenth of the labour force and contributes 15.5 per cent of GDP.

33. During 2003, the financial sector continued to demonstrate strength, the growth being a testament to the fact that customers prefer well-established

domiciles that offer expertise and experience. In particular, the Territory is emerging as a leader in the captive insurance market, following the licensing of 83 new companies. The total number of active captives is now 644, writing $4.98 billion in premiums and reporting $19.35 billion in assets. While the majority of the new captives formed in 2003 have been health care related and emanated from North America, other sources of new business included the Caribbean, the Pacific and Europe, with workers' compensation being the second largest category of insurance, followed by general liability.[12]

34. The European Union savings tax directive, which requires disclosure of financial information in relation to European Union (EU) depositors or the imposition of withholding tax on bank interest paid to EU citizens, was in the middle of tough negotiations between the Governments of the Cayman Islands and the United Kingdom throughout 2003. The Government of the Cayman Islands exerted considerable effort to resist the directive and tried to negotiate certain concessions, such as financing of the Airport expansion project in return for accepting the directive. At the end of 2003, the British Government had given an ultimatum to the Territory to adopt the new directive by 31 January 2004 or face its imposition by the order in council. In February 2004, the Territorial Government agreed to recommend the adoption of the directive to the Legislative Assembly. The opposition party, PPM, abstained from the vote. The Territory will have to enact the appropriate legislation by 30 June 2004 and enter into negotiations with EU member States with a view to concluding bilateral agreements. Implementation of the directive is scheduled for January 2005. It is contingent upon the adoption of the directive by the remaining jurisdictions, namely the dependent Territories of all European countries and five other States, which are supposed to agree on either the exchanging of information or a withholding of tax.[13]

35. During the reporting period, a number of associations in the Cayman Islands joined together to create a new entity, the Cayman Islands Financial Services Association, to add weight to efforts to maintain the jurisdiction's reputation as an international financial services centre. The Cayman Islands-based participants in the Association are the Society of Professional Accountants, the Society of Trust and Estate Practitioners, the Fund Administrators Association, the Bankers Association, the Insurance Managers Association and the Chamber of Commerce. Among the first of a number of tasks that the Association is undertaking is the launch of a web site that is expected to go live next month.[14]

E. Transport and communications

36. The Territory's development as an international business centre is dependent on modern and reliable telecommunications and utility services. Currently, the multinational company, Cable and Wireless, holds an exclusive licence for the local provision of telecommunications services in the Cayman Islands. The Government has been negotiating with Cable and Wireless over liberalization of the telecommunications sector in order to reduce telecommunication costs (see A/AC.109/2003/9, paras. 51-53). Reductions are expected in all major areas, including Internet businesses, thereby improving international competitiveness, allowing businesses to access cutting-edge technology and opening up new business opportunities in a variety of telecommunications-related areas and in e-commerce.

37. In order to liberalize the telecommunications business in the Territory, and foster competition, the Government signed an agreement with Cable and Wireless in June 2003. Under the proposed terms, the liberalization of the industry would go in phases and would become open to full competition by April 2004. Changes would include domestic and international cable and wireless services and rates.[15] In September 2003, the Information and Communications Authority of the Territory announced that it had received more than 20 applications for licences to operate different information technology networks and services. Following the selection, operating licences have been granted to nine companies. These ranged from provision of infrastructure to full service telecommunications.[16]

38. In September 2003, the Government also announced its intention to abolish the monopoly of the Caribbean Utilities Company even though the licence of the company does not expire until 2011. In the future, the Government does not intend to grant new licences on an exclusive basis for the generation or supply of electricity to the public. The announcement was precipitated by the company's decision to increase power tariffs by 3 per cent, which the Government considered unreasonable. The offer by the company to limit the increase by 1.5 per cent was rejected. The company is currently the sole provider of electricity in the Territory, operating 18 generating units and 5 transformers under a 25-year exclusive contract.[17]

39. International air services are provided between Grand Cayman and the United States, Canada, Europe, Jamaica, Honduras and Cuba. Major United States and British airlines operate regularly to and from the Cayman Islands. Domestic airline services and charters operate between the sister islands of the Cayman Islands.

40. Within the framework of negotiations with the United Kingdom on the European Union savings tax directive, the Government of the Territory made an attempt to acquire financial aid for the reconstruction of the airport, which will involve restructuring the buildings, grounds and runways. Preliminary estimates calculate the cost as ranging from $20 million to $50 million.[18]

41. During 2003, United Airlines commenced non-stop service between Chicago and Grand Cayman, marking the first time the airline has flown to the Territory in 10 years. According to the company, the service was re-established as a result of customer demand.[19]

42. The port of George Town is the main gateway for the almost 1 million cruise ships that carry tourists to the islands annually. The Cayman Islands are served by scheduled passenger liners and a number of locally owned or registered vessels that provide cargo services between the Cayman Islands and Miami, Tampa and Jamaica. Following the election in November 2000, the Tourism, Environment and Transportation Minister asked the port authority to review the George Town port development project.

43. Work began in September 2003 on the new terminal cruise facility in the Fort George port. The new terminal will stretch over 2 3/4 acres and will include a 200-foot pier. Funding for the project was provided through an agreement between the Government of the Territory and the Florida Caribbean Cruise Association.[20]

44. In conformity with the Government's policy to create the appropriate infrastructure for the overall economic development of the Territory, the Government formed a new Committee in April 2003 to focus on the transportation

system in the Cayman Islands under the 2025 National Road Plan. The plan is expected to include long-term measures to support access, mobility and economic development in the Territory as well as to encourage the protection of neighbourhoods and the environment.[21]

V. Social conditions

A. Human rights and immigration

45. The Territory is subject to several major human rights conventions to which the administering Power has acceded, although it has been the only United Kingdom overseas territory without a bill of rights (see A/AC.109/2002/7, para. 49 and A/AC.109/2003/9, paras. 61-63). The draft Constitution presented for approval by the United Kingdom in 2003 includes a bill of rights, which will be scheduled for implementation when the appropriate legislation is in place (see para. 9 above).

46. During the reporting period, the issue of immigration was an important question related to human rights in the Territory. At the end of 2003, the Cabinet (formerly called the Executive Council, headed by the Governor) granted citizenship status to a considerable number of persons who would not have qualified for it under the immigration law, including some who had been denied the status previously. The action generated strong criticism in the Territory. According to some estimates, approximately 4,000 persons in 2003 might receive or have already received status. With an estimated average of 1.5 dependants receiving status, in addition to those receiving it by grant, the Cayman Islands could gain approximately 10,000 new Caymanians as a result of actions taken by the Government during 2003. The legality of granting the status to approximately 2,900 persons was questioned by the 80-member Cayman Bar Association, which was considering mounting a legal challenge against the Cabinet. Under the Cayman Islands immigration law, the Cabinet is allowed to grant the status in exceptional cases, and over the years has exercised that authority on very few occasions. Critics suggested that the recent grants of status by the Cabinet were made in an attempt to influence the forthcoming 2004 election.[22]

B. Labour

47. According to the labour force survey released in May 2003, the labour force of the Territory comprises 29,905 people with 28,827 actually employed. This represents an unemployment rate of 3.6 per cent compared to 5.4 per cent in 2002. The number of working Caymanians is 13,973, or around 48.5 per cent of the total. This number has increased from 2001, when 11,844 employed Caymanians were recorded. The rest of the labour force is composed of work permit holders. Six thousand work permit holders are employed in the Territory for a period of more than 10 years. The workforce includes nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.[2]

48. In November 2003, the Government passed the immigration bill limiting foreign workers in the Territory to a stay of seven years. According to the supporters of the new legislature, the aim of the bill is to stop foreign workers who enter the Territory with a one- or two-year work permit from staying for a "long or indefinite

time". Critics consider that the limitation would be especially beneficial for young local lawyers seeking to enter the profession as it would reduce competition from the outside. The new law envisages some exemptions from the seven-year limit for foreign lawyers.[23]

C. Education

49. Education is compulsory for all resident children who are between 4 years, 9 months, and 16 years of age. The Government is directly responsible for education within that age group. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is owned by the Government but is independently administered. The Cayman Islands Law School is also Government-owned, while the College of the Cayman Islands is private.

50. The Government operates six primary schools, one middle school, two high schools and one alternative education centre on Grand Cayman, as well as three primary schools and one high school, which incorporates the middle school, on Cayman Brac. Tuition is free for Caymanians at those schools, but an annual book rental fee of 100 to 150 Cayman Islands dollars per student is charged. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department and receive grants from the Government.

51. The improvement of the standard of education is one of the Government's key policy initiatives in 2003/04. Key policy actions that were provided for in the 2003 budget included scholarships and bursaries to support local and international tertiary study, site preparation work for a new primary school at Spotts and planning and design work for a new secondary school in Grand Cayman. According to the strategic policy statement for the financial year 2003/04, the Government plans to implement measures to ensure that 95 per cent of school leavers meet expected educational standards, that 90 per cent of all adults have basic language and numerical skills and that the number of adults undertaking vocational training increases.

52. The Government is striving to advance professional education in the Territory. In 2003, the University of Portsmouth (United Kingdom) started a one-year Masters programme in human resources management in the Cayman Islands. The graduates will be awarded membership in the Chartered Institute of Personnel and Development, as well as a postgraduate certificate in professional management. The first group of 12 graduates will be followed by a second group of 20 students drawn from both the public and private sectors.[24]

D. Public health

53. The Health Services Department is responsible for the provision of all government health care, including public health services. In addition to general medical care, a wide range of specialist services is available locally. The Government has a contractual arrangement with the Baptist Hospital in Miami for tertiary care services. According to the administering Power, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality. The Health Practitioners Board has responsibility for the registration of private practitioners. In July 2002, the Health Services Department became a statutory authority. There is a 124-bed hospital in George Town. The facility

includes a state-of-the-art, fully staffed accident and emergency room. There is also an 18-bed hospital on Cayman Brac and several district health centres and clinics. In 2000, there were 84 registered doctors and 14 dentists in the Cayman Islands.

54. The Government has put considerable effort into its public outreach programme, especially targeted at the younger generation, on health-related issues. The National Drug Council of the Cayman Islands maintains a user-friendly web site providing statistics and advice as well as a schedule of events.[25]

E. Crime and public safety

55. The Royal Cayman Islands Police Force comprises 295 officers and 40 support staff. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers are also recruited from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad and Tobago, Honduras, the Bahamas, Nigeria and the United States.

56. The strategic policy statement for the financial year 2003/04 outlines the following specific goals to ensure the safety and security of the Cayman Islands: an efficient and fair legal and judicial system; reduction in the levels of petty and serious crime; reduction in the rate of reoffending by convicted offenders; secure and humane custody of offenders with custodial sentences; and maintenance of appropriate border security and protection.

57. According to press reports, the number of crimes in the Territory increased during 2003. Most crimes were connected with car thefts or car accidents or were drug related. While there were 499 accidents reported and prosecuted in the Territory in 2002, the number increased to 615 in 2003. With a population of nearly 45,000, the number of cars registered in the Cayman Islands has reached 28,400 which, according to the police, has resulted in a rise in the number of accidents.[26]

58. In cooperation with the business community, the Government continued to promote drug awareness and education in Cayman schools through the Abuse Resistance Education programme. The local police introduced the programme in 2000 in accordance with the national strategic plan for drug abuse prevention, which is coordinated by the National Drug Council. The programme teaches young people to resist drugs and helps them to develop positive life skills. The community involvement team of the Caribbean Utilities Company continued to honour its five-year pledge with the programme by donating money.[27]

VI. Relations with international organizations

59. The Cayman Islands, which had been an observer with the Caribbean Community, was approved for associate member status in February 2002 (see A/AC.109/2002/7, paras. 75 and 76).

VII. Future political status of the Territory

60. The issues of contention between the Territory and the United Kingdom with respect to future political status relate to some of the provisions in the Constitution,

the degree of self-government and control over local affairs by elected officials, the role of the Governor, the impact of compliance by the Territory with the United Kingdom's international obligations, and the participation of the Territory in those international affairs that affect its interests.

61. According to information provided by the administering Power, during the meeting of the Overseas Territories Consultative Council in London in December 2003, the Leader of Government Business, responding to the statement of position issued by the Parliamentary Under-Secretary of State, thanked the Under-Secretary for his straightforwardness, noted that all Territory Governments shared the objective of delivering high standards of governance and recognized the obligations arising out of the relationship with the United Kingdom. According to the Leader of Government Business, no Territory wanted independence — although the situation might change. All Territories, however, also had a strong desire for greater self-determination. The level of self-determination given to some Territories, but not to others, fostered a perception of discrimination. All United Kingdom Overseas Territories aspired to full internal self-government based on the Bermuda model. The Territories looked to the United Kingdom for a clear, more just and balanced relationship and expected the administering Power to fulfil its commitment to deliver on constitutional advancement.

62. The Leader of Government Business said that the Governors had a legitimate role to play not only by acting as a channel to the United Kingdom, but also by offering advice. However, he maintained that Governors should not override democratically elected leaders or preside over the Cabinet. The Leader of Government Business acknowledged that the Territories recognized the need for global standards in areas such as aviation and maritime matters, but there were no clear standards for the financial services sector. The Territories needed to determine their own policies on fiscal matters. While the Territories accepted the need to act with the United Kingdom against terrorism, such cooperation should not be used as a pretext to intrude upon domestic matters.

63. With respect to the Constitutional Review Commission, the Leader of Government Business proposed that the representatives of the Territories be invited to prepare a comparative analysis of the constitutional position in each Overseas Territory as the basis for constitutional modernization. He admitted that the Cayman Islands were a long way behind other Territories in this respect. He recalled that he had asked the United Kingdom in 2002 to expedite the process of constitutional change in the Cayman Islands. He observed that the civil society representatives in the Cayman Islands were seeking a far more advanced constitution than anything being considered by his Government. He further argued that the local Commission had been partial to the Opposition which, in his opinion, had tried to block constitutional development in the Cayman Islands until after the election. In this context, the United Kingdom's insistence on broad consensus was slowing the pace of change. He considered that there was a strong case for implementing certain changes immediately, such as changing his title to Chief Minister, and then introducing other changes, namely moving to single-member constituencies. However, he believed that bringing a new human rights chapter into effect could be implemented more slowly. According to the Leader of Government Business, the opposition argued that he only wanted to be Chief Minister, but the fact was that there was a need to address the shift to single-member constituencies. The civil society groups, however, wanted faster development towards a Bermuda-style

constitution. He noted that the Leader of the Opposition had been given constitutional status, but that he had remained Leader of Government Business rather than Chief Minister.

64. With respect to self-determination, the Leader of Government Business hoped that the United Kingdom would not exclude free association as an option for self-determination.

VIII. Position of the administering Power

65. In his statement at the second meeting of the Fourth Committee of the General Assembly, on 6 October 2003 (see A/C.4/58/SR.2), the representative of the United Kingdom said that his Government welcomed the opportunity, as an administering Power, to bring the Committee's attention to a number of significant developments that had taken place during the year. Following the adoption in 2002 of the British Overseas Territories Act, which granted all citizens of those Territories full British citizenship, the right of abode in the United Kingdom and freedom of movement within the European Union, over 14,000 passports had been issued by August 2003. As for environmental management in the Overseas Territories, the representative said that his Government was working closely with the Territories to fulfil the commitments it had entered into under multilateral agreements and to support the efforts of the Territories themselves to protect and improve their environment.

66. With respect to the constitutional reviews, discussions were under way in the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat and the Turks and Caicos Islands. The authorities of Anguilla had set up a committee to canvas views from the population at large and a locally appointed review commission was expected to be established shortly in the British Virgin Islands. Talks with Saint Helena have also started and are the furthest advanced, whereas discussions with Gibraltar have yet to commence. In terms of the Committee's specific interests, two years into the Second International Decade for the Eradication of Colonialism, perhaps the most significant development had been the decolonization seminar that had been held in Anguilla, from 20 to 22 May 2003, since it was the first time that the seminar had been held in a British Non-Self-Governing Territory. The choice of venue and the focus of the seminar had meant that several chief ministers and their equivalents, as well as opposition leaders and civil society representatives, had been able to attend. The representative of the United Kingdom said that the seminar had shown the extent to which many of the British Overseas Territories had dynamic and advanced economies that already benefited from a high degree of self-government.

67. The representative said that the United Kingdom had the impression that there was no strong desire in its Territories to choose the path of independence, even though his Government had made it clear that it would give encouragement where independence were an option. The key, therefore, as long as the Territories chose to retain their link with the United Kingdom, would be to try to reconcile their desire for greater autonomy and self-government with the United Kingdom's responsibility to ensure good governance, to protect the impartiality of the public service and the independence of the judiciary, and to ensure compliance with relevant international obligations.

68. In his closing remarks during the Fifth Overseas Territories Consultative Council, convened in London from 8 to 10 December 2003, the Parliamentary

Under-Secretary of State for Foreign and Commonwealth Affairs said that the role of governors vis-à-vis constitutional reform was based on the principle of partnership. According to the Under-Secretary of State, the concept of free association advanced by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples would not be inconsistent with that position, if it meant mutual acceptance by both sides, because the United Kingdom Government had responsibilities to protect. But if it meant, as he sensed to be the argument of some Territory Governments, that some territories would draw their own constitutions free of outside interference, the United Kingdom would not agree with that. The Under-Secretary went on to add that his Government valued its relationship with the Territories. It would not wish to force them into independence, although it would respond positively wherever the option was possible and was the clear and constitutionally expressed wish of the people. The United Kingdom respected the fact that for some Territories independence might be the long-term objective. He stressed, however, that while the Territories retained a link with the United Kingdom, their governance should be in partnership with it.[28]

IX. Consideration by the General Assembly

69. On 9 December 2003, the General Assembly adopted, without a vote, resolution 58/108 A-B, section V of which is devoted to the Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

[2] www.gov.ky.

[3] Cayman Islands Government Information Services (GIS), 13 February 2003.

[4] http://www.caymannetnews.com; www.legislation.hmso.gov.uk.

[5] www.electionsoffice.ky.

[6] http://www.caymannetnews.com/2004/01/565/constituencies.shtml and http://www.caymannetnews.com/2003/12/559/editorial.shtml.

[7] www.fco.gov.uk; M2 Presswire, 4 February 2004.

[8] www.fco.uk, CIA Fact book, http://www.cia.gov/cia.

[9] The Cayman Islands: A Centre of Excellence for the Twenty-first Century, 8 November 2002.

[10] http://www.caymannetnews.com/2004/01/579/tourism.shtml.

[11] http://www.caymannetnews.com/2003/12/560/themepark.shtml.

[12] http://www.caymannetnews.com/2004/01/580/insurance.shtml.

[13] www.caymannetnews.com/2004/01/564/uk.shtml; and International Money Marketing, 9 February 2004.

[14] Private Banker International. London: Jan 31, 2004.

[15] Press Release, June 2003, www.gov.ky.

[16] www.icta.ky; Caribbean Insight, 12 September 2003, vol. 26, No. 31.

[17] Caribbean Insight, 26 September 2003, vol. 26, No. 33.

[18] www.caymannetnews.com/2004/01/564/uk.shtml.

[19] www.caymannetnews.com/2003/12/559/united.shtml.

[20] Caribbean Insight, 5 September 2003, vol. 26, No. 30.

[21] Cayman Islands Government Information Services (GIS), 23 April 2003.

[22] www.caymannetnews.com/2003/12/561/status.shtml, www.caymannetnews.com/2004/01/571/status.shtml, and www.caymannetnews.com/2004/01/568/status.shtml.

[23] The Lawyer, 3 November 2003.

[24] Cayman Islands Government Information Services (GIS), 22 January 2004.

[25] www.ndccayman.com.ky.

[26] www.caymannetnews.com/2004/01/580/crashes.shtml.

[27] www.caymannetnews.com/2004/01/564/dare.shtml.

[28] Report of the proceedings of the Fifth Overseas Territories Consultative Council, 8-10 December 2003, annex F, closing remarks by Mr. Rammell.